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December Term
1845.

Be it remembered that on the fifteenth day of December in the year of our Lord one thousand eight hundred and forty five, it being the third Monday thereof, pursuant to law there was begun in the Town of Austin a Supreme Court of the Republic of Texas, present the Hon. John Hemphill Chief Justice, Wm. J. Jones and M. P. Norton Associate Judges, Thomas Green Clerk and Jas. H. Mathews Sheriff of Travis County and ex-officio Sheriff of the Supreme Court. There being no quorum present, it was ordered that the Court adjourn until to-morrow morning 11 o'clock.

Tuesday, December 16th 1845.

The Court met pursuant to adjournment, present, Ch. J. Hemphill and Associates Baylor, Wm. J. Jones & Norton. There being no quorum, it was ordered that the Court adjourn until to-morrow morning 10 o'clock.

Wednesday December 17th 1845.

The Court met pursuant to adjournment, present Ch. Justice Hemphill and Associates Baylor, Wm. J. Jones, Wm. E. Jones, John B. Jones and Norton.

The Docket of the 3d District having been called by the Ch. Justice The following causes were contd. until the next Term of the Court.

50. Horton v. Brown.
135. Republic v. Harbert.
184. Wharton v. Lee.
243. Toler & Crosby v. Ayres.

In the cause of Holtzclaw v. Saunders, at the suggestion of R. Gillespie Esq. the names of Lipscomb & Gillespie were striken from the Docket as altogether for Appellee.

136. Republic v. Fisk et ux., ordered to the foot of the Docket.

3d District.

324. Mitchell v. Barton - The motion of Appellants Counsel for certiorari requiring the Clerk of the District Court of Travis County to send up to this Court forthwith certified a more full and complete transcript of the Record, was granted.

331. Duggan v. Cole. The motion of Appellants Counsel for certiorari was granted - commanding the Clerk of the District Court of Travis County to send up to this Court forthwith, all the answers of the Defendant to the interrogatories propounded to him by the Plaintiff in the Court below

James W. Robinson, a practitioner of law, of this Republic, was admitted to practice in this Court.

Ordered, that the Court adjourn until to morrow morning 10 o'clo

Thursday December 18th 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm. J. Jones, - Wm. E. Jones, John B. Jones, Norton and Wheeler - On motion of the Atty. Genl. the following causes were ordered to be docketed.

362. Tho. G. Wiggins Pltff in Error
vs. } St. Augustine.
Wm. G. Anderson Deft in Error

and Sam Houston Applt.
263. vs. } St. Augustine.
Elisha Roberts Applee

On the motion of Jas. Webb Esq., Jas. W. Davis a practitioner of law of this Republic was admitted to practice in this Court.

The following causes were continued until the next Term of the Court

115. Holtzclaw v. Saunders - and

147. Houston Presd.t v. Robertson.

135. Republic v. Harbert - This cause was opened by consent of parties and placed at the heel of the Docket for the 3d District.

The following causes were also placed at the foot of the Docket for the 3d District.

136. Republic v. Fisk & wife.

287. Brock et al v. Jarman - and

288. Alexander v. Jarman.

The following causes were argued by Counsel and submitted to the Court.

261. Holdeman v. Croft.

262. McDonald v. Hancock.

331. Duggan v. Cole and

332. Ogden v. Ogden.

Ordered that the Court adjourn until to-morrow morning 10 o'clo

Friday December 19th 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Wm J. Jones, Wm E. Jones John B. Jones, Norton & Wheeler.

The following causes were continued by consent until the next Term of the Court.

287. Brock et al v. Jarman.
288. Alexander v. Jarman.

The cases of

335. Hoxey v. Butler Admr &
336. Dade v. Averitt

were also continued.

The following causes were argued by Counsel and submitted to the Court.

324. Mitchell v. Barton.
341. Republic v. Gammell &
347. Links, Vail & Co. v. Republic.

Ordered that the Court adjourn until Monday morning 10 o'clock.

Monday December 22d 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm J. Jones, Wm E. Jones, John B. Jones, Norton & Wheeler.

On Motion —

Thomas Newcomb, Jonas Butler and Augustus Fischer Esq practitioners of law in this Republic were admitted to practice in this Court. — On motion the following causes were ordered to be docketed.

Holt v. Clemmons.
McNeese v. Republic.
Allcorn v. Republic.
Gregg et al v. Coles et al.
3d Dist.
Rhoades v. Wheeler — 4th District.
Republic v. Gage & Wingate — 5th District.

Fitzgerald Adm^{rx} v. Jones Pres^{t}
Roberts v. Short use of &c.
Clement v. Fuller
Rowlett v. Fulton } 7th Dist.
Bush v. Republic
Duncan v. Painter

The following causes were argued by Counsel and Submitted to the Court.

135. Republic v. Harbert
136. Republic v. Fisk & wife

William Sherrod Appellant
319. vs. } Appeal from Milam.
David A. Barton Appellee

At this Term came the parties the Appellant and Appellee by their Attorneys, and Submit now here to the Court the following agreement of compromise, made and entered into between B. Gillespie Esq. Attoy for Saml B. Kellogh Adm^{r} of David A. Barton Appellee and William Sherrod the Appellant, which they pray to be entered of Record in this cause as a part of the Judgment, — which agreement is in the words following, viz: "It is agreed by the aforesaid parties that the Judgment of the District Court of Milam in favor of Said Barton be confirmed and that a judgment be rendered against the Representatives of said Barton for all the costs in both Courts &c. and Said Sherrod have leave to withdraw his papers, &c." It is therefore ordered, adjudged and decreed that the judgment of the District Court for Milam County be in all things affirmed, subject to the provisions of the agreement aforesaid, and that the Representatives of the Said Barton pay the cost of this cause in this Court expended as well as the cost in the Court below, and this decision be certified below for execution.

The following causes were cont^{d} until the next Term of the Court.

364. Merritt et al v. Clow.
365. Holt v. Clemmons.
366. McNeese v. Republic.
367. Allcorn v. Republic &
368. Gregg et al v. Coles et al.

The 2d District having been called by the Ch. Justice — In the cause of the Heirs of Hunt App^{lt}
152. vs. } Appeal from Colorado.
Heirs of Robertson App^{lee}

The Attorney for Appellants made the following motion:
The Appellants come by Attorney and suggests the death of Robert Stephenson who sued in right of his wife and as guardian of —

Sophiana E. Robinson and moves the Court to order a Scire fac to iſsue to Susanna Stephenson Administratrix of the vacant Succeſsion of Robert Stephenson decd. to make her a party to this suit as said Administratrix, on or before the next Term this Court and that the guardian of the said Sophiana E. Robinson when known, may be also made a party—

Robinson Atty for Hunts heirs

Whereupon it was ordered that Scire facias iſsue accordingly

The following causes were Submitted to the Court.

253. Republic v. Dewees.
255. Heirs of Mixon v. Republic.
349. Perry v. Foley.
357. Foster & Foster v. Smith.

The following were contd. until the next Term of the Court.

234. Dewees v. Hudgeons.
235. Scott use of &c. v. Dewees.
291. Secrest v. Townsend &
358. Mims v. Mitchell.

6th District.

In the cause of

79. Springer v. Blanchet — the names of L. & Gillespie were struck from the Dockett as Attorneys for Appellant at the Suggestion of B. Gillespie Esq. and the name of A. G. Perry Substituted.

80. Crosby v. Huston.

contd. by consent until the next Term of the Court.

142. Whiting v. Petters — The death of Appellee William Petters Suggested — and Scire facias ordered to iſsue to his legal Representatives when known and cause contd. until the next Term of the Court.

Ordered that the Court adjourn until tomorrow morning 10 o'clock.

Tuesday December 23rd. 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Aſsociates Baylor, Wm. J. Jones, Wm. E. Jones, John B. Jones, Norton & Wheeler.

On motion, the following causes from Matagorda were ordered to be docketed.

178. Herbert v. Republic.
179. Herbert v. Republic.

The following causes in the 6th District were contd until the next Term of the Court.

79. Springer v. Blanchet.
140. Cook v. Crawford.
159. League v. Cunningham.
167. Western v. Woods Admr.
168. Cordova & Co. v. Priestly.
219. Moore v. Harris.
222. Wooster v. McGee.
223. Wooster v. Wakeman.
231. Collard v. Gray.
233. Green Admr. v. Franklin Guardian.
236. Bryan v. Kelton et al.
238. Thompson Prob. Judge v. Buckley Admr.
249. Hellebrau v. Drake.
250. Chambers v. Hodges
294. Green Admr. v. Chassaigne.
295. Green Admr. v. Voizot.
296. Bailey v. Sparks.
297. Thuvenin & Chassaigne v. Helzle.
298. Linney v. Ogden.
303. Moore v. Torrey.
304. Vince v. Brock et al.
307. Hopson v. Murphy
309. Wynns & Lawrence v. Underwood Surv. port.
311. Culp v. Board of R. & Revenue et al.
126. Ogden v. Slade.
321. Ederington v. League.
329. Robbins v. Walters &
340. Chassaigne v. Helzle.

161. Smith & Jones v. Gerlach & Levenhagan — no return having been made to the writ of Scire facias — an alias writ was ordered to issue to Charles J. Gerlach Admr. & cause contd until the next Term of the Court.

The following causes were submitted to the Court.

187. Townsend & Haywood v. Whiting.
220. Briscoe v. Bronough.
245. Republic v. Nunn.
293. Green Admr. v. Peltzer & Lohr.
302. Moore et al v. Republic.
305. Frost v. Frost.
306. Lamar v. Houston,
310. Whiting v. Grimes &
322. Perkins v. Whiting.

188. McNealy et al v. Taylor.

Ordered to the foot of the Docket for the 6th District.

Thomas Gibbs & Corner B. Coley Appellants }
189. vs. } Appeal fr
William Robert Appellee } Montgomery

At this Term came the parties Appellants and Appellee and Submit now here to the Court the following agreement of compromise made and entered into between the said parties — which they pray to be entered of record in this cause and made a part of the judgment of the Supreme Court, which agreement is in the words following, viz: "This is to certify to the Clerk of the District Court, also to the Clerk or proper officer of the Supreme Court of the Republic, that whereas at the Spring Term of the District Court for Montgomery County in the year 1843 - I recovered a judgment for som ninety two dollars or thereabouts against Corner B. Coley and Thomas Gibbs as securities which said case was taken up by them to the Supreme Court. Now the said Thomas Gibbs having this day paid to me the said debt to my entire satisfaction I desire and request that the same be withdrawn when the said Gibbs pay the Court fees & his own witneſses (I to pay my own witneſses if any thing to be paid) and that the said Gibbs have a clear receipt from the Courts when he complies with the above agreement as regards costs." signed by the parties.

It is therefore ordered, adjudged and decreed that the cause be dismiſsed, subject to the agreement aforesaid, and this decision be certified below for execution.

221. Laignier alias Lockhart v. Lockhart —

The death of John Lockhart the Appellee was suggested, and by consent his Administrators Charles I. Lockhart and William Lockhart were made parties, and cause contd until the next Term of the Court.

224. Larson v. Moore.

Scire facias ordered to iſsue to Algernon P. Thompson Admr of Larson & cause contd until the next Term of the Court.

240. Allen et al v. Briscoe

The death of I. W. Burton was suggested, and Scire facias ordered to iſsue to his legal Representatives when known & caus contd until the next Term of the Court.

308. Holman v. McNeill.

By the consent of parties, the motion of Appellee's Couns for certiorari was granted, commanding the Clerk of the Distri Court of Harris to send up to this Court certified a full an complete Transcript of the Record - & cause contd until the next Term of the Court.

344. Borden et al v. Prest of Republic.

The motion & affidavit of Appellant's Counsel for certiorari & continuance was Submitted to the Court.

The following causes in the 1st District were contd by consent of parties.

192. Moore v. Morse.

292. Cagee Admr v. Lewis.

Ordered that the Court adjourn until to-morrow morning 10 o'clock

Wednesday December 24th 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm J. Jones, Wm E. Jones, John B. Jones, Norton and Wheeler.

222. Wooster v. McGee.

This cause was re-opened by consent and Submitted with a Suggestion of delay.

322. Perkins v. Whiting.

This cause having been Submitted by Counsel for Appellee, was withdrawn by consent and contd until the next Term of the Court.

345. Jones v. Black.

The motion for certiorari was granted, commanding the Clerk of the District Court of Harris County to send up to this Court on or before the next Term thereof certified a full and complete transcript of the Record.

The following causes were contd by consent until the next Term of the Court.

345. Wood v. Tankersley &

359. State Bank of Alabama v. Simonton.

188. McNealy et al v. Taylor

argued by Counsel and Submitted to the Court.

Ordered that the Court adjourn until Friday morning 10 o'clock.

~~Friday December 26th 1845.~~

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm J. Jones, Wm E. Jones, John B. Jones, Norton and Wheeler.

308. Holman v. McNeill.

By consent the order for certiorari was set aside, and the cause argue by Counsel and submitted to the Court.

The Docket of the 1st District was then called by the Chief Justice, an the following causes continued until the next Term of the Court.

51. Edwards v. Dart.
131. Holliman v. Peebles.
155. Pease & Towns v. Randon.
165. Phillips v. Lyons.
182. Hodges Dep. Col. v. Ward & Ingram.
192. Moore v. Morse.
225. Bates Clk. &c. v. Republic.
226. Brig Vernma v. Clark.
313. Thompson Admr. v. Duncan.
314. Rector & McCormick v. Doe.
315. Sweeney v. Wilson.
317. Clowd v. Smith & Adriance.
316. Hansborough v. Smith & Adriance.
318. Clowd v. Smith.
320. Hansborough v. Towns use &c.
323. Hurd v. Emerson.
334. Hawkins v. Trimble.
382. Portis v. Cochrane.
383. Catlin Admr. v. Munger Clk &
384. Grayson v. Catlin.

121. Huff v. Somervell.

This cause was re-submitted at this Term on the part of the Appellee.

267. Schr. Anna Maria & cargo v. Moore et al.

The suggestion of delay and motion to dismiss by Appellee's Counsel was argued and submitted to the Court.

328. Ross v. Compton.— The motion for alias certiorari commanding the Clerk of the District Court of Fort Bend County to send up to this Court certified a perfect Transcript of the Record was granted and cause contd. until the next Term of the Court.

333. Cheek et al v. Rogers.

Suggested as a case of delay by Deft. in Error and submitted to the Court.

The following causes were argued and submitted to the Court.

378. Herbert v. Republic.
379. Herbert v. Republic.
380. Pitts use of &c. v. Ennis & Reynolds &
385. Petters Admrix v. Perry et al.

381. Ennis & Reynolds v. Runnels.

Motion of Appellant for continuance was argued by Counsel and submitted to the Court.

C. B. Greenwood Pltff in Error.
386. vs. } Appeal from Austin.
Micajah Terry Deft. in Error

At this Term came the Attorney for Defendant in Error and says that the amount in controversy has been paid by the Plaintiff to the Defendant in Error, and prays that the cause be dismissed. It is therefore considered by the Court here and it is hereby ordered, adjudged and decreed that the cause be dismissed, and the Plaintiff in Error pay the cost of this cause in this Court expended - and this decision be certified below for execution.

The 4th District having been called by the Ch. Justice - the following causes were contd until the next Term of the Court.

112. Paschal v. Seguin &.
355. Bennett v. Gambel Admr.
241. Dimitt et al v. Power.

Wm E. Jones Administrator of Dimitt was made a party by consent.

Phillip Dimitt &
John Sutherland Appellants } Appeal from Refugio.
241. vs.
James Power Appellee

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being inspected because it seems to the Court here that there was no error in the judgment of the Court below. By consent of parties, it is ordered, adjudged and decreed that the judgment of the Court below be in all things affirmed, and the cause dismissed, and the Appellee Power pay the cost of this cause in this Court expended as well as the cost in the Court below, and this decision be certified below for execution.

Ordered that the Court adjourn until Monday morning 10 o'clock.

Monday December 29th 1845.

The Court met pursuant to adjournment, present Ch. Justice Hemphill and Associates Baylor, Wm J. Jones, Wm E. Jones, John B. Jones, Norton and Wheeler.

267. Schr Anna Maria & Cargo v. Moore et al.

The motion of Appellant's Counsel for continuance was refused and a motion to dismiss was submitted by Appellee.

381. Ennis & Reynolds v. Runnels.
The motion of Appellants' Counsel for continuance was gran

Scott & Solomon App^{lts}
181. vs. } Appeal from Matagorda.
Maynard & wife App^{lees}

At this Term came the parties Appellants and Appellees by their Attorneys and submit now here to the Court the following agreement of Compromise made and entered into between the said parties — which they pray to be entered of Record in this Cause and made a part of the Judgment of the Supreme Court, which agreement is in the words following viz "The above cause having been settled amicably by the parties it is agreed that all proceedings in said Supreme Court shall be dismissed — and that the motion for restitution instituted at the June Term A. D. 1843 of said Court, shall be and the same is hereby withdrawn. And further that the appeal taken upon a suit instituted by Scott & Solomon against said Maynard & wife in the District Court of Matagorda County, which appeal was taken at the March Term of said Court A. D. 1844, shall be and the same is hereby dismissed."

(Signed) Jas. W. Dollam
Atty for Scott & Solomon.
" James Denison
Atty for Maynard & wife.

It is therefore ordered, adjudged and decreed that the motion for restitution be dismissed in accordance with the agreement aforesaid, that the Appellants pay the cost of this cause in this Court expended and this decision be certified below for execution.

The following causes in the 4th District were cont^{d} until the next Term of the Court.

119. Addicks Clerk v. Nixon.
325. Howard Adm^{r} v. Republic.
329. Lockhart Adm^{r} v. Republic.
343. Corp. Victoria v. Neill.
350. Smithers by Adm^{r} v. Trimble.
351. Cunningham Adm^{r} v. Republic.
355. Bennett v. Gambel Adm^{r}
356. Sutherland v. DeLeon.
360. Tarpley v. Poages Adm^{r} &
361. Linn v. Scott.

The Hon^{l} Wm B. Ochiltree, Attorney General, then in a brief and eloquent address presented to the Supreme Court the following preamble and resolutions adopted at a meeting of the Judges and Bar on Friday the 26th inst. which are as follows:

At a meeting of the Judges and members of the Bar of the Supreme Court of Texas aſsembled at the Supreme Court Room in the City of Austin on Friday the 26th inst. The Hon.l John Hemphill Chief Justice of the Republic was called to the Chair, and Thomas Green Clerk of the Supreme Court appointed Secretary — when the following preamble and resolutions offered by James Webb Esq. were unanimously adopted. —

Whereas an over-ruling Providence has been pleased to take from this Court and from a circle of sincere and admiring friends, since our last Hon.l Richard Morris of the First Judicial District of this Republic, and the Hon.l Patrick C. Jack of the Sixth Judicial District of the same, we the Judges of the Supreme Court, and members of the Bar practicing therein, have aſsembled to expreſs our deep regret at this dispensation of Providence, and our sincere regard for them while living.

We cannot complain of the decree which has called them from amongst us. It is one of those inscrutable acts of an all-wise Providence which it is not permitted to frail or fallible man to scan or scrutinize. But while we bow in humble submiſsion to the will of a Superior power, we may be permitted to regret the untimely fate of our friends, and speak in the character of those who mourn deeply for own loſs. We who knew them well can best appreciate the extent of that loſs. Let us then recount and record the virtues of the dead so far as it may be done upon an occasion of this sort. In life they were among the brightest ornaments of our profeſsion, and the pride of the social circle. As men they could boast of all the noblest attributes which belong to human character. As members of the Legal profeſsion they deservedly occupied a most conspicuous rank, and as Judges of the Supreme Court of this Republic, they could justly lay claim to the exalted stations they filled. Stations filled with ability, firmneſs and integrity.

"Insatiate Archer could not two suffice,
Thy darts flew thrice, and thrice our peace was slain."

While recording the merits and expreſsing the deep and lasting regret which we as members of the Supreme Court have sustained in the death of two of its worthy and distinguished Judges, we cannot permit the opportunity to paſs, of expreſsing the same feelings in reference to one of our most distinguished brothers of the Bar, William H. Jack has also been called from amongst us since the last adjournment of this Court, leaving to his friends a rich legacy of profeſsional distinction. His name has been identified with all that is brilliant and renowned in the history of the legal profeſsion of this his adopted country, and it is with a solemn, tho' sincere pleasure that we pay this just tribute to his fame.

Be it therefore Resolved, that we the Judges and members of of the Supreme Court of Texas will cherish the memory of our deceas friends, while their high and exalted worth and many virtues are engraved upon our hearts.

Resolved as an evidence of the respect and veneration in whic we hold their characters, we will wear crape upon the left arm for thirty days.

Resolved, that the Attorney General of the Republic present the proceedings of this meeting to the Supreme Court with a request that they be entered upon the minutes thereof.

Resolved, that the Secretary furnish the nearest relatives of the deceased with a copy of these Resolutions under the Seal of the Court.

Resolved, that these proceedings be published in the several newspapers of the Republic.

Whereupon the meeting adjourned.

(Signed) John Hemphill Chairman.

(Signed) Thomas Green Secretary.

To which Resolutions, Chief Justice Hemphill in behalf of the Court made the following reply:

"In making the neceſsary order to perpetuate on the minutes of the Court the eloquent tribute of respect and affection for the memories of our departed brethren of the Bench, which has been presented, we cannot, in reply, forbear to expreſs the profound emotions of sorrow and grief with which these afflicting events have filled our hearts- In the maturity of manhood, in the vigor of intellect, endowed with the wisdom and virtue, the ability and integrity which are the neceſsary requisites and the highest ornaments of Judicial station, with a future full of bright hopes and high promise of usefulneſs and distinction. Our brethren have been suddenly swept from this transitory state of existence- We their aſsociates on the Bench and in the Council Chamber- who have experienced their aid in solving the difficulties and disentangling the perplexities which embarraſs the paths to Judicial decision, can best appreciate our deplorable loſs. They were true and warm in their attachments and in private life were distinguished for the virtues and graces which characterize the honest man and the accomplished gentleman

They were cut off in the commencement of their career, but ~~not~~ before they had furnished evidences of their high legal attainments, and that their knowledge of the principles of jurisprudence was daily widening and deepening its foundations. They have departed from among us But their memories will long be cherished, and their labors perpetuated to remote ages.

We cordially unite in sympathizing with the members of the

Bar in their sorrow for the death of one of their most distinguished brothers, the Honble William H. Jack. He was a patriot; - a Statesman of gigantic intellect, and sagacious and comprehensive views. His great talents have often been devoted to the Service of his country, and his loſs deeply affected the sensitatities of the Nation. In his profeſsion he was characterized for his courtesy, his zeal for his client, for a brightneſs of perception which took in the exact body and substance of the object of his mental vision, which pierced at once the obscurity and Shadows that enveloped the point, for examination, and generally for the learning, the lucid arrangement and solid thought which pervaded all his efforts. His example is worthy of imitation, and the most aspiring may be satisfied with reaching the eminence which he had attained.

Ordered that the Resolutions which have been presented, and this reply be Spread upon the minutes of the Court - and that a copy of the same be furnished by the Clerk of this Court to the nearest relations of the deceased. ——

175. Keller v. Webb.

In this cause a motion was made to dismiſs by Atty for Appellee and submitted to the Court.

The following causes were Submitted to the Court:

326. Republic v. Dikes.
352. Haynie a.e v. Republic &
353. Haynie ass.e v. Republic.
354. De La Garza v. Tevohy

Suggested as a case of delay and motion to dismiſs was Submitted by Counsel for Appellee.

370. Rhoades v. Wheeler

Submitted on Brief by Appellant.

In the case of Nixon v. Anderson Collector from San Augustine motion for scire facais directed to James Keaghy Admr of Nixon of the County of Jasper, was granted.

The Docket of the 5th District having been called by the Ch. Justice:

The cases of

14. B. of L. Comrs v. Raquet & Logan &
265. Franklin v. Mooney - were contd until the next Term of the Court. ——

369. Republic v. Gaze & Wingate.

In this cause Meſsrs. Allen and Hardin are aſsigned by the Court Attorneys in behalf of the Republic.

Ordered that the Court adjourn until to-morrow morning 10 o'clock.

Tuesday December 30th 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm J. Jones, Wm E. Jones, John B. Jones, Norton and Wheeler.

Robert Mitchell Appellant
324. vs. Appeal from Travis.
Wayne Burton Appellee

Opinion of the Court delivered by Judge Wm J. Jones. —

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being examined and the argument of Counsel heard, because it seems to the Court here that there was no error in the judgment below. It is therefore ordered, adjudged and decreed, that the said judgment below be in all things affirmed, and the Appellant pay the cost of this cause in this Court expended, and this decision be certified below for execution.

Francis Ogden App^{lt}
332. vs. Appeal from Travis.
Adm^{r} of Jas. M. Ogden App^{lee}

Opinion of the Court delivered by Judge Wheeler. —

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being inspected, because it seems to the Court here that the property in question does not descend to the heir to the exclusion of Creditors, but is assets in the hands of the Administrator. It is therefore ordered, adjudged and decreed that the judgment below be affirmed, and the Appellant Francis Ogden pay the cost of this cause in this Court expended Let this decision be certified below for execution.

Sinks, Vail & Co. Appellants
347. vs. Appeal from Bastrop.
Republic of Texas Appellee

Opinion of the Court delivered by Ch. J. Hemphill. —

This cause coming on to be heard on a reserved point in the Transcript of the Record of the Court below, and it being inspected, and the argument of Counsel heard, because it seems to the Court here that there was no error in the judgment below. It is ordered, adjudged and decreed that the judgment of the Court below be in all things affirmed, and the Appellants pay the cost of this cause in this Court expended and this decision be certified below for execution.

The Heirs of Naham Mixon Applts }
255. vs. } Appeal from Colorado.
Republic of Texas Appellee }

Opinion of the Court delivered by Ch. J. Hemphill.

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being inspected, because it seems to the Court here that there was no error in the judgment of the Court below, It is ordered, adjudged and decreed, that the judgment below be in all things affirmed, and the Appellants pay the cost of this cause in this Court expended, and this decision be certified below for execution.

E. W. Perry Appellant }
349. vs. } Appeal from Colorado.
W. G. L. Foley Appellee }

Opinion of the Court delivered by Judge Wheeler.

This cause coming on to be heard on the Transcript of the Record of the Court below, and the same being inspected, because it seems to the Court here that there was no error in the Judgment of the Court below. It is therefore considered by the Court here, and it is hereby ordered, adjudged and decreed that the judgment below be in all things affirmed, and the Appellant pay the cost of this cause in this Court expended, and this decision be certified below for execution.

Reason Green Admr. of }
A. Cardet Appellant } Appeal from Liberty.
293. vs. }
Peltzer & Lohr Appellees. }

Opinion of the Court delivered by Ch. J. Hemphill.

This cause coming on to be heard on the Transcript of the Record of the Court below, and there being therein neither Bill of exceptions, Statement of facts, nor errors apparent in the Record, it is ordered, adjudged and decreed that the judgment of the Court below be in all things affirmed, and the Appellant pay the cost of this cause in this Court expended, and this decision be certified below for execution.

Mirabeau B. Lamar Appellant }
306. vs. } Appeal from Harris.
Sam Houston Appellee }

Opinion of the Court delivered by Ch. J. Hemphill.

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being inspected, and it appearing to the Court that there was no error in the judgment of the Court below, It is therefore ordered, adjudged and decreed that the judgment of

the Court below be in all things affirmed, and the Appellant pay
cost of this Cause in this Court expended, and this decision be certif
below for execution. —

The following causes were contd. until the next Term of the Court:

264. Chevallier v. Buford.
363. Houston v. Roberts.
200. Hamilton v. McKenzie &
330. Hamilton v. McKenzie.

267. Schr. Anna Maria v. Moore et al.

In this cause the argument was commenced. —

Ordered that the Court adjourn until tomorrow morning 10 o'clock.

Wednesday December 31st 1845.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm. J. Jones, Wm. E. Jones, John B. Jones, Norton and Wheeler.

267. Schr. Anna Maria & Cargo v. Moore et al.

The argument in this cause was concluded and the case submitted to the Court.

Ordered that the Court adjourn until tomorrow morning 10 o'clock. —

Thursday January 1. 1846.

The Court met pursuant to adjournment, present Ch. J. Hemphill and Associates Baylor, Wm. J. Jones, Wm. E. Jones, John B. Jones, Norton and Wheeler.

The 5th District having been called by the Ch. Justice, the following causes were continued until the next Term of the Court:

36. Lansing v. Stivers.
41. Kirkman v. Snively.
98. Board of L. Comrs. v. Reily.
153. Duffield v. Houston.
157. Nixon v. Anderson Collector.
158. Nixon v. Anderson Collector.
196. Hanks v. Thompson.

263. Thompson v. Thompson.
289. Campbell et al v. Horton.
337. Durst v. Douglass use &c.
339. Burton v. Anderson.
346. McAlister v. Perry &
362. Wiggins v. Anderson.

The following Causes were argued and submitted to the Court:

39. Dailey v. Bodine.
40. Bodine v. Dailey.
138. Gowings v. Loyd Admr.
248. Duffield v. Bodine Admrix &
388. Thompson v. Henderson.

Upon the motion of C. W. Buckley Esq. the following causes from the County of Fort Bend were ordered to be docketed:

Cartwright v. Ennis & Holt.
Phillips v. Johnson.
Cartwright v. Cartwright.
Phillips v. Smith & Adriance.
Cartwright v. Roff, &
McMahan v. Swenson.

The following motions were made by Jas. Webb Esq.

Cartwright v. Ennis & Holt } — Error from Fort Bend Dist. Ct.

The Counsel for the Defendants in Error suggests that this cause was brought up for delay only. He therefore moves the Court to affirm the judgment of the District Court.

Webb for Defts in Error.

McMahan Pltff in Error }
vs. }
Swenson Deft. in Error }

This is a writ of Error sued out to a decree in chancery — the Decree was rendered upon confession. The Defendant in Error suggests to the Court that this cause is brought up for delay only. He therefore moves the Court to affirm the Decree and Judgment of the District Court with damages. Webb for Deft. in Error.

364. Merritt et al v. Clow.

The Counsel for Plaintiffs in Error moves the Court for certiorari to be directed to the Clerk of the District Court of Washington County, directing him to send up to the next Term of the Supreme Court a full and complete Transcript of the Record and proceedings in the above cause, which motion was granted, and certiorari ordered.

395. Foster & Foster v. Jones & Watrous.

The Appellees present the record in the above stated case, and ask the Court for an affirmance of the judgment of the Court below with costs and damages because the Appellants failed to bring up the Record in accordance with the provisions of the 13th Rule of the Supreme Court. — (Signed) Buckley for Appellees.

Ordered that the Court adjourn until tomorrow morning 10 o'clock. —

Friday January 2d 1846. —

The Court met pursuant to adjournment, present Ch. J. Hemphill and associates Baylor, Wm J Jones Wm E Jones John B Jones Norton & Wheeler. —

Jesse Holderman appellant
281. vs } appeal from Bastrop
Russel B. Craft appellee

Opinion of the Court delivered by Judge Wm J Jones —

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard because it seems to the Court here that there is manifest error in the Court below, It is ordered adjudged and decreed that the Judgment of the Court below be reversed and the Cause remanded to the District Court of Bastrop County for a new trial, and the appellee pay the cost of this cause in this Court expended, and this decision be certified below for execution.

Donald McDonald appellant
282. vs } appeal from Bastrop
Lewis Hancock appellee

Opinion of the Court delivered by Judge Norton: —

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard, because it seems to the Court here that there was no error in the Judgment of the Court below. It is therefore Considered by the Court here, and it is hereby ordered adjudged and decreed that the judgment of the Court below be in all things affirmed, and the appellant pay the Cost of this Cause in this Court expended and this decision be certified below for execut......

Thomas Duggan Appellant }
331. vs. } Appeal from Travis.
James Cole Appellee }

Opinion of the Court delivered by Judge John B. Jones. —

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being inspected, and the argument of Counsel heard, because it seems to the Court here that there was error in the Court below, It is ordered, adjudged and decreed that the judgment of the Court below be reversed, and the cause remanded to the District Court of Travis for a new trial, and the Appellee pay the cost of this cause in this Court expended and this decision be certified below for execution.

Republic of Texas Appellant. }
vs. } Appeal from Gonzales.
Miles G. Dikes Appellee. }

Opinion of the Court delivered by Judge Wm. J. Jones. —

This cause coming on to be heard on the Transcript of the Record of the Court below, and it appearing to the Court that the verdict of the Jury is fully sustained both by the facts and the law of the case. It is therefore ordered, adjudged, and decreed that the judgment below be in all things affirmed, and the Appellant pay the cost of this cause in this Court expended, and this decision be certified below for execution.

J. A. Haynie ass^ee Appellant. }
352. vs. } Appeal from Bexar.
Republic of Texas Appellee. }

Opinion of the Court delivered by Judge Wm. J. Jones. —

This cause coming on to be heard on the Transcript of the Record of the Court below, and it appearing to the Court here that the Record contains no Bill of Exceptions or Statement of facts, and there being no error apparent in the Court below. It is ordered, adjudged and decreed that the judgment of the Court below be in all things affirmed, and the Appellants pay the cost of this cause in this Court expended; and this decision be certified below for execution.

Jose Antonio De la Garza Appellant. }
354. vs. } Appeal from Bexar.
John Twohig Appellee }

Opinion of the Court delivered by Judge John B. Jones. —

This cause coming on to be heard on the Transcript of the Record of the Court below, and it appearing to the Court are that the Judgments of the Court below [illegible] against the Defendant and his securities on the Bond given to obtain the injunction, which was erroneous & should have been rendered against the Defendant only. — It is therefore ordered adjudged and decreed that the Judgment below be reversed, and this Court proceeding to give such Judgment as the Court below should have ~~been~~ rendered, It is further ordered adjudged and decreed that the appellee recover of the appellant Jose Antonio De la Garza One thousand one hundred and twenty one Dollars and eighty seven cents, and the further sum of One hundred and thirteen Dollars interest with interest on the principal sum at the rate of ten per cent per annum until paid, and his costs in the Court below expended and it is further adjudged that the appellee [illegible] pay the Cost of this Court, and this decision be certified below for execution. —

Burwell J. Thompson Appellant
389. vs } appeal from San Augustine
J. Pinckney Henderson appellee

This cause coming on to be heard on the transcript of the Record of the Court below, and the same being inspected It seems to the Court here that there is no error therein, but that the appeal to this Court was taken for delay, It is therefore considered by the Court here that the Judgment of the Court below be in all things affirmed together with ten per centum damages to be computed on the principal sum adjudged and added to the amount recovered, and the appellee recover of the appellant his Cost in this cause in this Court expended, and this affirmance be certified below for execution. —

J. H. Cartwright plff in Error
390. vs } appeal from Fort Bend
Cannis & Holt defts in Error

This Cause coming on to be heard on the transcript of the Record of the Court below, and the same being inspected because it seems to the Court here that there is no Error therein, but that the appeal to this Court was taken for delay. It is therefore Considered by the Court here that the Judgment of the Court below be in all things affirmed together with ten per Centum damages to be computed on the principal sum adjudged and added to the amount recovered, and the appellee recover of the appellant his Cost in this Cause in this Court expended - Let this affirmance be Certified below for execution. —

William McMahan plff in Error
395. vs ⅔ From Fort Bend
J. M. Swenson Deft in Error

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected because it seems to the Court here that there is no error therein but that the appeal to this Court was taken for delay. It is therefore Considered by the Court here that the Judgment of the Court below be in all things affirmed together with ten per Centum damages to be computed on the principal sum adjudged & added to the amount recovered, and the appellee recover of the appellant his Cost in this cause in this court expended - Let this affirmance be certified below for execution. —

389. Republic v Page et al
Argued & submitted to the Court.

The Docket of the 7th District having been called by the Ch. Justice the following Causes were Cont^d until the next Term of the Court.

97. Saunders v. McDonald
103. Wilkinson & Cowman v. Pirtle
109. Sancho v. Republic
207. McFarland v. Republic
210 Williams et al v. Wright
248 Smith et al v. McIntyre & Duncan
250 [illegible] v. Williams
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

279. Rowlett v. Fulton et al
280. Brierly v. Chamberlain et al
281. Spencer v. Austin
282. Williams v. West
285 Hulbert v. Smith & wife
286. Gordon v. Perry
297. Field v. Anderson
312. Roberts v. Short use of
331. Republic v. Hill
371. Fitzgerald admr & v. Jones President
372. Roberts v. Short use of &c
373. Clement v. Fuller
375. Bush v. Republic
377. Duncan v. Painter &
387. Heirs of Prewitt v. Woods

The following causes were re-submitted to the court. —

177. Peterson v. Gray &
303. Pourchal v. Kinsey et al

Ordered that the court adjourn until tomorrow morning 10 o'clock. —

Saturday January 3d 1846. —

The Court met pursuant to adjournment, present Ch. J. Hemphill, and associates Baylor, Jno. [illegible] Jones, Wm. E. Jones, John B. Jones, Norton & Wheeler. —

Thomas W. League Pltff in Error
vs } From Harris
Saml. Whiting Deft in Error

Opinion of the Court delivered by Judge Wm. E. Jones

This Cause coming on to be heard on the transcript of the Record as it [illegible] below and it being considered because it seems to the Court that there is no error in the Judgment of the Court below, It is therefore ordered adjudged and decreed that the Judgment be in all things affirmed, and the Plaintiff in Error pay the costs of this Cause in this Court expended, and [illegible] be [illegible] below for execution. —

Republic of Texas appellant
vs } appeal from Bastrop
William Gammell appellee
Opinion of the Court delivered
by Judge Wm. E. Jones. —

This Cause Coming on to be heard on the transcript of the Record of the Court below, and it being inspected It seems to the Court here that there was error in the Judgment of the Court below. It is therefore ordered adjudged and decreed that the Judgment of the Court below be reversed and the Cause remanded to the District Court of Bastrop County for new trial to be governed by the principles of this decision, with leave to the claimant to amend his petition, and the appellee pay the Cost of this cause in this Court expended and this decision be Certified below for execution. —

Republic of Texas appellant
vs } appeal from Colorado
William B. Dewees appellee
Opinion of the Court
delivered by Ch. J. Hemphill. —

This cause Coming on to be heard on the transcript of the Record of the Court below, and it appearing to the Court here that there was error in the court below It is therefore Ordered adjudged and decreed that the Judgment of the Court below be reversed and the Cause remanded for new trial and that the plaintiff have leave to amend his petition and the appellant pay the cost of this Cause in this Court expended, Let this decision be Certified below for execution. —

William M. Cook appellant
144 vs } appeal from Harris
Edward Hall appellee
Opinion of the Court delivered by Judge Wheeler

108.

This Cause Coming on to be heard on the transcript of the Record of the Court below, and it being inspected because it seems to the Court ~~here~~ that there was no error in the judgment of the Court below, It is ordered adjudged and decreed that the judgment below be in all things affirmed, and the appellant pay the cost of this cause in this Court expended. Let this affirmance be certified below for execution

Clark Wooster appellant
223. Vs. } appeal from Harris
A. B. Wakeman appellee

Opinion of the court delivered by Judge Wm. E. Jones —

This cause Coming on to be heard on the transcript of the Record of the Court below, and it being inspected, because it seems to the court here that there is no error apparent in the proceedings or Judgment of the Court below It is therefore ordered adjudged and decreed that the Judgment of the district court be affirmed, & the appellant pay the cost of this cause in this Court expended, and this decision be certified below for execution. —

Hugh Nunn plff in Error
245. Vs } Er from Liberty
Republic of Texas Deft in Error

Opinion of the Court delivered by Judge John B. Jones. —

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected because it seems to the Court here that the judgment below was erroneous, It is ordered adjudged and decreed that the Judgment of the Court below be reversed and arrested and the Deft. in Error pay the Cost of this cause in this court expended, & this decision be certified below for execution

Saml. M. Frost appellant
305. Vs } Appeal from Harris
Ann L. Frost appellee

Opinion of the court delivered by Judge Baylor. —

This Cause coming on to be heard on the transcript of the Record of the Court below and it being inspected, because it seems to the Court here that there was no error in the Judgment below. It is ordered adjudged and decreed that the Judgment below be in all things affirmed and the appellant pay the Cost of this Cause in this Court expended, & this decision be certified below for execution. —

James S. Holman plff in Error
318. vs } Er appeal from Harris
Angus McNeill Deft in Error

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected, because it seems to the Court here that there is no error in the Judgment of the Court below. It is ordered adjudged and decreed that the Judgment of the Court below be in all things affirmed and the plaintiff in Error pay the Cost of this Cause in this Court expended & this decision be certified below for execution -

Saml. Whiting appellant
310. vs } appeal from Harris
- R. H. - Grimes appellee

This cause Coming on to be heard on the transcript of the Record of the Court below, and it being inspected, because It seems to the Court here that there was error in the judgment of the Court below, It is therefore ordered adjudged and decreed that the Judgment of the Court below be reversed and the cause remanded for new trial and the appellee pay the Cost of this cause in this Court expended & this decision be Certified below for execution. —

N. H. Munger appellant
190. vs [3] appeal from Austin
Jas B. Allen & Elizabeth Allen appellees

Opinion delivered by Judge Norton

This cause coming on to be heard on the transcript of the Record of the court below & it being inspected, because it seems to the Court here that there was manifest error in the court below. It is ordered adjudged and decreed that the Judgment of the Court below be reversed and the cause remanded with directions that the defendant have leave to file a further answer and the appellees pay the cost of this cause in this court expended. Let this decision be certified below for execution. —

C. C. Herbert plaintiff in Error
378. vs [3] from Matagorda
Republic of Texas Deft in Error

Opinion delivered by Judge Jno B. Jones

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected and the argument of counsel heard, because it seems to the court here that there was error in the court below in pronouncing a Judgment final in its character except upon the finding of a jury or the Confession of the party It is therefore ordered adjudged and decreed that the Judgment of the court below be reversed and the cause remanded for further proceedings below and the appellee pay the Cost of this cause in this Court expended. Let this decision be certified below for execution

C. C. Herbert plff in Error
379. vs [3] from Matagorda
Republic of Texas Deft in Error

Opinion delivered by Judge John B. Jones

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected because it seems to the Court here that a Judgment final in its character except upon the finding of a Jury, or the Confession of the party is erroneous It is therefore ordered adjudged and decreed that the Judgment of the Court below be reversed and the cause remanded for further proceedings below. And the appellee pay the cost of this Cause in this Court expended & this decision be certified below for execution

Matthew Keller appellant
175. vs } Appeal from Victoria
F.B. Webb appellee

Opinion delivered by Judge Wm. E. Jones —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected. It does not appear that any final judgment was ever rendered in the District Court. It does not therefore present a case for the revision of this tribunal

It is ordered adjudged and decreed that the appeal be dismissed and the appellant pay the cost of this Court. Let this decision be certified below for execution. —

C. A. Rhoades appellant
370 vs } Appeal from Victoria.
J. A. Wheeler appellee

Opinion of the Court delivered by Judge Baylor. —

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected, because it seems to the court here that there was no error in the Judgment below, It is ordered adjudged and decreed that the Judgment of the Court below be in all things affirmed, and the appellant pay the Cost of this cause in this Court expended - Let this decision be certified below for execution. —

Saml. M. Wingate applt.
369. vs } appeal from Houston
Republic of Texas appellee

Opinion of the Court delivered by Judge Wm. E. Jones -

This Cause Coming on to be heard, on the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard, because it seems to the Court that the Court below Erred - It is therefore ordered adjudged and decreed that the judgment of the District Court be reversed, and it is ordered that the said Court proceed to hear the evidence offered by the accused in this case and bail or remand as the evidence may require - and the appellee pay the Cost of this Cause in this Court expended. Let this decision be certified below for execution. —

P. Mann applt
v. } appeal from Harris
Richard Vince appellee

Ordered by the court that the above cause be docketed, and Continued until the next Term of the Court, and Citation issue to the appellant. —

Ordered that the Court adjourn until 4 oClock - P.M.

4. oClock P.M.

The Court met pursuant to adjournment present Ch. J. Hemphill and associates Baylor Wm J. Jones Wm E Jones John B Jones Hurlow & Wheeler. —

David S. Harbert ~~appe~~ applee
135. vs } appeal from Bastrop
Republic of Texas appellant

Opinion of the Court delivered by Ch. J. Hemphill — This cause coming on to be heard on the transcript of the Record of the Court below and it appearing to the Court here that there was error in the Court below, It is ordered adjudged and decreed that the Judgment of the Court below be reversed and the cause remanded for a new trial, and the appellee pay the Cost of this Cause in this Court expended - Let this decision be certified below for execution.

Foster & Foster appellants pltffs in Error appts;
396. vs } From Fort Bend.
Watrous & Jones ~~defts in Error~~ appellees;

This cause coming on to be heard on the transcript of the Record of the

Court below, and it appearing to the Court here that there is no error therein, but that the appeal to this Court was taken for delay It is therefore Considered by the Court here that the Judgment of the Court below be in all things affirmed together with ten per Centum damages to be computed on the principal sum adjudged and added to the amount recovered, and the ~~Defendants in Error~~ appellees recover of the appellants ~~Plaintiffs in Error~~ the cost of this cause in this Court expended - Let this affirmance be certified below for execution.

Ordered that the Court adjourn until 8 o'Clock P.M. —

8 o'Clock P.M.

The court met pursuant to adjournment - quorum present. — *Ordered* that the Court adjourn until monday morning 8 o'Clock. —

Monday Jany 5th 1846. —

The court met pursuant to adjournment present Ch. J. Hemphill & associates Baylor, Wm J. Jones Wm E. Jones & Norton

267. Schr Anna Maria & Cargo vs. Alexander Moore et al. appellees

This Cause coming on to be heard on the transcript of the Record of the Court below and it being inspected & the argument of Counsel heard because it seems to the court here, that there was no error in the Judgment below. It is *ordered* *adjudged* and *decreed* that the ~~Judgment~~ decree of the Court below be in all things affirmed, & the said District Court is required to make all the necessary orders for the Collection & distribution of the prize money as the Statute requires, and the appellant pay the Cost of this cause in this Court expended - and this decision be certified below for observance. —

The minutes of the Court having been examined and approved, It is *Ordered* that the Court adjourn until its next Annual Term. —

John Hemphill Ch. Jus.
R. E. B. Baylor
William E. Jones
Jno. B. Jones
R. T. Wheeler
William J. Jones —
M. P. Norton